

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**(Attorney Docket № 14973US02)**

In the Application of:

Marcus Kellerman, et al.

Serial No. 10/674,672

Filed: September 30, 2003

For: SUPPORTING MULTIPLE USRS  
FROM A SINGLE LOCATION  
SHARING A MEDIA PROCESSING  
SYSTEM VIA A PERSONAL MEDIA  
GUIDE

Examiner: John R. Schnurr

Group Art Unit: 2421

Confirmation No. 5006

***Electronically filed on 01-APR-2010***

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on January 4, 2010 ("Final Office Action") with a period of reply through April 4, 2010. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on March 23, 2019 ("Advisory Office Action"). No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

**REMARKS**

The present application includes pending claims 1-29, all of which have been rejected. Claims 1-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by USPP 2002/0104099 ("Novak"). The Applicant respectfully submits that the claims define patentable subject matter. The Applicant also respectfully traverses these rejections at least for the following reasons:

**I. EXAMINER'S RESPONSE TO ARGUMENTS**

The Examiner states the following at pages 2-3 of the Final Office Action:

(1) In response to applicant's argument (Remarks pgs. 14-16) that Novak (US 2002/0104099) discloses "two distinct roles for user within the media system," the examiner respectfully disagrees. As has been previously explained the upload source

122 and set top box 152 can be the same device ([0061]). The distinction between uploaders and users is for explanation purposes only and it is clear from Novak's complete disclosure that the two roles can be played by the same device, stb 152.

(2) In response to applicant's argument (Remarks pg. 16) that Novak does not disclose "receiving authentication information associated with a first user of the first communication device, and facilitating a display of a user-defined selection from the media content by the first communication device in a user-defined layout," the examiner respectfully disagrees. Novak requires a password to view the synthetic channel ([0084]) and the synthetic channel is arranged by the user ([0063]).

(3) In response to applicant's argument (Remarks pgs. 16-18) that Novak does not disclose "the software platform is operable to push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location," the examiner respectfully disagrees. Novak teaches the upload device schedules broadcast of the synthetic channel which is received by other users ([0084]). The synthetic channel is sent from the upload device to the other users via intermediate devices as is inherent in a network. The claim limitation "directly via the communication network" must include intermediate devices receiving the personal media or there would be no "communication network."

**In reference to Examiner's argument (1) above:** Referring to paragraph 0061 and Fig. 5 of Novak, the Applicant points out that Novak does not disclose that the upload source 122 and the STB 156 at an end user location are one and the same entity. Novak, at paragraph 0061, only discloses that the upload source can use various ways to upload data, including a set-top box (such as the STB 152). *Novak never intended (nor is it possible) for "the upload source 122 and set top box 152" to be the same device simultaneously, and Novak's disclosure supports the notion that the upload source 122 cannot be simultaneously an end user.*

For example, the last sentence in paragraph 0061 states that once video recordings are uploaded to a server, they are "subsequently provided to subscribed end users." Obviously, the "subscribed end user" is not the same as the upload source. This is further supported by FIGS. 1-2 and 5. The web site (123, 224 or 506) and the video server (508) can be accessed only by the upload source and not by the end user (clearly seen from one-way connection from the upload source 122/222 to the web site 124/224, as well as a one-way communication path from the camera 502 to STB 504 to web site 506 to server 508).

**In reference to Examiner's argument (2) above:** The Examiner alleges that "Novak requires a password to view the synthetic channel ([0084]) and the synthetic channel is arranged by the user ([0063])." The Applicant disagrees. As explained in the 09/08/2009 response, Novak (in paragraph 0084) requires a password *from the end user* to view the synthetic channel. In addition, Novak (at paragraph 0063) discloses that the synthetic channel can be arranged. However, such arrangement of the synthetic channel is performed by the uploader, and not by the end user (which are two separate entities as explained in the preceding paragraphs).

**In reference to Examiner's argument (3) above:** The Applicant points out that the key claim language here is "push the media content arranged in the user-defined layout, *directly* ... to at least a second communication device..." In other words, communication of the media content is achieved by routing the media from the first device directly to the second device, i.e., the media communication is between the first and second devices, regardless of the fact that the communication may go through a "communication network". Novak, however, is distinguished

since the EPG is not directly routed from the upload source 122 to the end user 152. Communication in Novak takes place between the upload source 122 and the local studio 106; then between the local studio 106 and the provider 108; and finally, between the provider 108 and the user 152 via the network 134. In fact, Novak's EPG (which includes the synthetic channel) is generated by the provider 108, and then it is communicated/routed from the provider 108 to the user 152. (Novak at ¶10037). In this regard, *Novak never routes media directly between the upload source 122 and the user 152*. In other words, Novak does not disclose "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited by the Applicant in independent claim 1.

The Applicant respectfully maintains all arguments stated in the 09/08/2009 response, which are summarized again herein below, for the convenience of the Examiner.

## **II. Novak Does Not Anticipate Claims 1-29 - Rejection of Independent Claims 1, 12, 16 and 27**

Without conceding that Novak qualifies as prior art under 35 U.S.C. § 102(e), the Applicant respectfully traverses this rejection as follows. With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited by the Applicant in independent claim 1. The Final Office Action states the following:

Consider claim 1, Novak clearly teaches a system for supporting multiple users of a communication device (Fig. 1), comprising:

a first communication device communicatively coupled to a communication network at a first geographic location; (Fig. 3: STB 308 is coupled to the Internet 302, [0045].)

media content disposed in the communication network or the first communication device, (Media content can be stored in the STB, Fig. 1 [0032], or on the network, Fig. 3 [0047].), the media content comprising personal media; (The content is user created, [0062].)

a software platform residing on the first communication device ([0077]), the software platform receiving authentication information associated with a first user of the first communication device, (Fig. 11: Access to the synthetic channel can be password protected, [0084].) and facilitating a display of a user-defined selection from the media content by the first communication device (Fig. 11: Block 114, [0085]) in a user-defined layout (Fig. 7: The user defines the layout of the display, [0063].), wherein the software platform is operable to push the media content

arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, (Fig. 7: The content is broadcast from the upload device to the end user, [0064]-[0065].) and wherein the selection from the media content is defined by the first user ([0062]) and corresponds

to the received authentication information. (Only authorized users can view the content, [0084])

See Final Office Action at pages 3-4. With regard to the software platform functionalities, the Final Office Action relies for support on FIGS. 7 and 11 of Novak. Initially, the Applicant points out that **Novak discloses two distinct roles for users within the media system of FIG. 1 – individuals who upload media (uploaders) and end users (e.g., users of STB 308 or 152).** For example, certain individuals (e.g., upload source 122) can upload media objects to a server and specify a manner in which the media objects are to be played as a media program to an end user. The media program can be provided to an end user via a synthetic channel, which can be tuned to or selected by the end user as if tuning to a conventional television broadcast channel. See Novak at Abstract and ¶ 0010. Novak, at FIGS. 5-7, discloses how an upload source can organize/schedule the synthetic channel. Novak, at FIG. 11, discloses how an end user receives/views the synthetic channel. In other words, the synthetic channel is set up by the uploader, or the upload source, and it is only viewed by the end user, where the upload source 122 is different from the viewer (end user) of the EPG 153. Steps 1104-1106 of FIG. 11 and the corresponding description in ¶ 0078 relate to the upload source 122, and not to the end-users (the Applicant notes the specific reference that uploaded media is broadcasted to the end users; See lines 10-11 of ¶ 0078). In this regard, the platform used by the upload source 122 in steps 1104-1106 is not used by the end user STB 308.

The Final Office Action is equating the password entered by the end user for protecting access to the synthetic channel (Novak at ¶ 0084) to Applicant's "authentication information associated with a user of the communication device," as recited in Applicant's claim 1. In other words, Novak's entered password is associated with the end user viewing the EPG 153. However, **the end user does not have any control over what media is included in the media channel as such functionality is reserved for the uploader, or the upload source 122. In this regard, Novak does not disclose "wherein the selection from the media content is defined by the first user"** (of the first communication device, i.e., the end user of STB 308 or 152), as recited in Applicant's claim 1.

Furthermore, the Applicant points out that the Final Office Action equates Novak's set-top box 308 (or 152) with Applicant's "communication device." However, **Novak does not disclose that the STB 152 has the functionality of pushing media content arranged in user-defined layout, directly via a communication network to a second communication device associated with a second user at a second geographic location for consumption at the second geographic location.** Figs. 4 and 5 of Novak disclose that the STB can be used to simply upload personal videos to a server. Novak's STB is not used to push media content that has been arranged in a user-defined layout to another user at another location via the communication network. Furthermore, Novak's STB uploads the personal video at the server only for purposes of storing it. **Novak does not disclose or suggest that the uploaded personal video is also "consumed" at the location of the server. On the contrary, the uploaded personal video information is subsequently communicated to yet another location for purposes of preparing the synthetic channel. (See Section I above and the response to Examiner's argument #3). Therefore, Novak also does not disclose or suggest "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location,"** as recited in Applicant's claim 1.

The Examiner states the following in the "Response to Arguments" section:

In response to applicant's argument (Remarks pgs. 14-17) that Novak (US 2002/0104099) does not teach the limitation of "push[ing] the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location," the examiner respectfully disagrees. Novak discloses the first user scheduling broadcast times for the content during which content will be sent to the second user ([0064]-[0065]).

See Final Office Action at page 2. The Examiner relies for support on paragraphs 0064-0065, which relate to Novak's Fig. 7 and organizing the synthetic channel by the uploader or the upload source 122. **As explained above, the uploaded personal video information is subsequently communicated to yet another location for purposes of preparing the synthetic channel (e.g., see paragraph 0068). The Examiner is also referred to Fig. 1, where it can be clearly seen that there is no direct connection between the upload source 122 and the STB 152 at the end-user location.** The Applicant, therefore, maintains that Novak does not disclose or suggest "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Applicant's claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 12, 16 and 27 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 12, 16 and 27 are also allowable over the reference cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

### III. Conclusion

The Applicant respectfully submits that claims 1-29 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 01-APR-2010

By:           /Ognyan I. Beremski/            
Ognyan I. Beremski, Esq.,  
Reg. No. 51,458  
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775 - 8100  
(OIB)